

SECTION: REMARKS

This reply is submitted pursuant to 35 U.S.C. §132 and 37 C.F.R. §1.111. The Office Action was carefully considered by the undersigned attorney and applicant. Reconsideration of the application is respectfully requested.

1. Summary of the Office Action.

Claims 1, 4-7 and 9-16 were pending.

Claim 16 is withdrawn from consideration.

Claims 1, 4-7 and 9-14 stand rejected under 35 U.S.C §112, second paragraph.

Claims 1, 4-6 and 12 stand rejected under 35 U.S.C §102(b) over Seiler (5,816,464).

Claims 1, 4, 7 and 12 stand rejected under 35 U.S.C §102(b) over Cassel (5,553,321).

Claims 9 and 11 stand rejected under 35 U.S.C §103(a) over Seiler in view of Seiler (5,593,024).

Claims 10 and 15 stand rejected under 35 U.S.C §103(a) over Seiler in view of Seiler and further in view of Baratelli (2,739,698).

Claims 13 and 14 stand rejected under 35 U.S.C §103(a) over Seiler ('464) or Cassel in view of Conley (5,151,778).

2. Discussion.

Claim Rejection(s) - 35 USC §112, Second Paragraph

Claim 1. This claim was rejected under 35 USC §112, second paragraph. The claim has been amended to clarify the invention changing "and" to --an--. The claim particularly points out and distinctly claims the subject matter which applicant regards as the invention. Withdrawal of the rejection is requested.

Claim Rejection(s) - 35 USC §102-103

Claim 1. This claim was rejected under 35 USC §102 as being anticipated by Siler'464 and Cassel. The claim is amended to patentably distinguish and limit over Siler '464 and Cassel by defining the invention to be an eyeglasses system including eyeglasses and a cover, and that the system be used by the method comprising the steps of placing the eyeglasses through the cover ingress/egress opening and inserting one bow of the eyeglasses through the bow aperture, which is adjacent the ingress/egress opening, so that the bow completely extends from the pouch interior to the pouch exterior. This structure and function is not shown, suggested or made obvious by either of the applied references. In contrast, Siler'464 shows a binocular/camera case 10 which has a pair of apertures (38 for instrument straps 12). Neither aperture is located adjacent the ingress/egress opening 44. Instead, they are located at the opposite end of the pouch. Further, there is no disclosure or even suggestion of use of the case with eyeglasses, and particularly not for hanging eyeglasses by an extended bow. Cassel on the other hand shows a combination visor and foldable case 1 which has a flat 2 plied body 7/8 with open ended sides 6. Lower ply 7 has a lens slit 16 and arm slits 17. In use, glasses 2 are substantially permanently (See for example discussion in Objects and Advantages wherein "eyeglasses need never be separated from visor...") attached to the visor with the lenses 3 between the plies and both arms 4 disposed in the arm slits. Referring to column 2, line 41-42 and as is shown in Figure 1, only the ends of the arms protrude through the slits. These differences are patentably significant because the amended elements relate to advantages the invention has in terms of protection of delicate eyeglass lenses and bows (one bow of applicant's eyeglasses is folded and protected completely inside the pouch), ease of placement and removal of the glasses in the cover, and ease of securement of the protected eyeglasses to the user's apparel. It is submitted that this amendment clearly indicates a narrower interpretation than that of the original claim, which interpretation patentably avoids the applied art. Withdrawal of the rejection is requested.

Claim 15. This claim was rejected under 35 USC §102 as being obvious in view of Siler'464 and Baratelli. Applicant respectfully submits that the combination of Siler'464 and Baratelli still does not meet each and every element set forth in the claim as filed. The claim as filed requires that the pouch have a substantially oval configuration with a smaller width than length, and that the bow aperture be disposed proximate the ingress/egress opening. In contrast, Siler'464 discloses a substantially square case 10 with apertures 38 disposed at an end opposite the opening 44. Thus, substantial differences exist between the claim and the applied references. However, in order to more clearly

distinguish applicant's invention from the prior art, applicant has amended the claim to include that the body is unitary and adapted to completely surround eyeglasses and that the elastic banded edge create a single normally close opening, but which is openable by stretching. In contrast, Baratelli discloses a stitched tubular configuration with open ends wherein the elastic band is disposed in the middle, not to close an end, but apparently to secure the tube around the eyeglasses. As the references relied upon do not describe all of the element of the claim, the claim is patentable and withdrawal of this rejection is warranted.

Claim 16. Claim 16 was withdrawn from consideration as being drawn to a constructively non-elected invention. However, the examiner indicated that it could be rejoined with the pending claims if eyeglasses are claimed in combination with claims 1 and 15. Applicant's amendment to claim 16 is believed to comply with the examiner's suggestion. Claim 16 is amended to depend from claim 15 and positively claim eyeglasses and method steps of protecting the eyeglasses in a structure as provided in apparatus claim 15. The combination of the elements of claim 16 are believed to be patentable for all of the reasons submitted in the remarks about claim 15 above and additionally because the applied references do not disclose a method of protecting eyeglasses involving extending a bow completely through a bow aperture so that it is accessible for hanging on a user's apparel while simultaneously protecting the eyeglasses. Allowance of claim 16 is respectfully requested.

3. Conclusion.

The claims pending after this amendment are believed to be patentable for the reasons stated above. The amendments are believed to be supported by the specification, claims and drawings as filed. It is believed that this case is now in a condition for allowance. Reconsideration and favorable action are respectfully requested.

Should the Examiner believe that telephone communication would advance the prosecution of this case to finality, she is invited to call at the number below.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time under 37 CFR 1.136(a), provided a Petition is not submitted separately.

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Respectfully submitted,



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